

Remarks

Claims 1, 2, 4, 8, 10-18, and 20-22 are pending. Claim 9 is canceled in this amendment. Claims 3, 5-7, 19, and 23-27 were previously canceled. Claims 1 and 8 are amended to state that the lecithin product has an oil and sugar content of about 10 wt.% or less of total dry matter. Support for this amendment can be found, inter alia, on page 4 in paragraph [0019]. Claim 10 is amended so as not to depend from a canceled claim.

Rejection under 35 U.S.C. §103

Claims 1 and 2 were rejected under 35 U.S.C. 103(a) as being unpatentable over Umeda et al. (U.S. Patent No 5,833,858) as further evidenced by the Merck Index.

Umeda et al are cited for their teaching of Table 2. In Table 2, Umeda et al. use soybean lecithins identified as material 1 and material 2 as starting materials for their inventive composition. The two step inventive process of Umeda et al. causes the phosphatidylcholine (PC) content of material 1 and material 2 of 18.5% and 25.6%, respectively, to fall to below 1%.

Material 1 and material 2 from Table 2 have a combined glycolipid and neutral lipid content of 48% and 26%, respectively. It is well settled that neutral lipids are triglycerides. See Losch et al. col 1 at lines 34-36. It is also well settled that oils are triglycerides. The present claim 1, as amended, has an oil and sugar content of about 10 wt.% or less. One would not read the disclosure of Umeda et al. at Table 2, which has a combined glycolipid and neutral lipid content of 48% and 26%, respectively to arrive at the present claim that has an oil and sugar content of about 10 wt.% or less.

In order for the Office to show a *prima facie* case of obviousness, M.P.E.P. §2143 requires that the Office must meet three criteria: (1) the prior art reference must teach or suggest all of the claim limitations; (2) there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference, and (3) there must be some reasonable expectation of success. The Office has clearly failed to meet its burden under (1) and/or (2) above, since the teachings of Umeda et al. fail to teach or suggest all of the claim limitations of Applicant's claim 1, as amended. Reconsideration and withdrawal of this ground of rejection is respectfully requested.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Umeda et al. (U.S. Patent No 5,833,858) as further evidenced by the Merck Index and further in view of Losch et al.

It is Applicant's belief that claim 1 is amended to overcome the rejection of Umeda et al. Since claim 4 depends from claim 1, claim 4 is also patentably distinct over Losch et al. There is no disclosure in Losch et al. that compensates for the deficiencies in Umeda et al. Losch et al. teach a composition that contains at least 80% by weight of PC. This composition preferably does not contain any PE or PE.

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Claims 8, 15-18, 21 and 22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Pardun (U.S. Patent No. 3,661,946) in view of Umeda et al. as further evidenced by Merck.

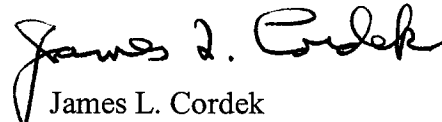
Claim 9 is not rejected by the above references. The limitation in claim 9 is incorporated into claim 8. With this claim 9 limitation now in claim 8, claims 8, 15-18, 21 and 22 are now patentably distinct over Pardun in view of Umeda et al. as further evidenced by Merck. Reconsideration and withdrawal of this ground of rejection is respectfully requested.

Claims 9-14 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. To overcome this objection, the limitation of claim 9 is incorporated into claim 8. Reconsideration and withdrawal of this ground of objection is respectfully requested

In view of the above, Applicant respectfully requests favorable reconsideration and allowance of all pending claims. If any additional fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 50-0421.

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Respectfully submitted,
SOLAE, LLC


James L. Cordek
Registration No. 31,807

PO Box 88940
St. Louis, MO 63188
314.659.3218